



Arizona State Senate *Issue Brief*

December 12, 2007

Note to Reader:

The Senate Research Staff provides nonpartisan, objective legislative research, policy analysis and related assistance to the members of the Arizona State Senate. The *Research Briefs* series, which includes the *Issue Brief*, *Background Brief* and *Issue Paper*, is intended to introduce a reader to various legislatively related issues and provide useful resources to assist the reader in learning more on a given topic. Because of frequent legislative and executive activity, topics may undergo frequent changes. Additionally, nothing in the *Brief* should be used to draw conclusions on the legality of an issue.

SCRAP METAL

INTRODUCTION

In recent years, the occurrence of metal theft has increased across the United States (U.S.) as metal prices have risen. Various entities, from utility companies and state and local governments to home builders, agricultural companies and breweries, report being victims of metal theft. For example, in 2007, Beer Institute, an organization that represents the beer industry, reported that the scrapping of kegs costs brewers and importers over \$50 million each year. The Beer Institute also reports that the scrap value of kegs rose from about \$5/keg to over \$40/keg over three years.

Although metal theft includes theft of various metals, a large percentage of that is theft of copper. According to the National Conference of State Legislatures (NCSL), worldwide copper demand, particularly due to economic growth in the U.S. and China, has fueled a used resale copper market and plays a significant role in the sudden increase of copper thefts. As the demand increased, the price of copper quadrupled from \$.80/lb. in 2003, to around \$3.60/lb. in 2007.

NCSL also reports that copper thefts are particularly prevalent in the energy sector because electric utilities are a major consumer of copper. As a result of copper theft, some areas experience decreased grid function, power outages and, in 2006, seven people were known to be electrocuted while trying to steal copper from generators or substations.

To curtail metal theft, national organizations such as Beer Institute and the Institute of Scrap Recycling Industries (ISRI), which represents over 1,200 companies that consume scrap commodities, are attempting to raise public awareness of the issue. ISRI, with the help of the federal Bureau of Justice Assistance, has also joined forces with the National Crime Prevention Council and created the Theft Alert System, which allows law enforcement, scrap recyclers and victims of theft to electronically notify scrap metal dealers of stolen materials. Additionally, in 2007, approximately 15 states, including Arizona, enacted legislation that places greater requirements on scrap metal dealers and establishes criminal penalties specific to metal theft.

METAL THEFT IN ARIZONA

As in other states, entities in Arizona have reported a recent increase in metal thefts. In 2006, the City of Phoenix reported 2,983 metal thefts, as compared with 601 in 2002, which represents a 396.3% change over a four-year period. Of the 2,983 metal thefts in 2006, 2,824 were copper thefts. Overall, since 2002, the number of reported metal thefts in Phoenix has risen annually. Additionally, the Arizona Department of Transportation estimates expenditures of approximately \$500,000 for repairs and new wiring on the state highway system in the Phoenix metropolitan area during calendar years 2006 and 2007, as a result of metal theft.

Sale of Scrap Metal

Arizona has regulated the purchase of scrap metal since 1968, when the Legislature first required scrap metal dealers to maintain transaction records. Since then, the scrap metal dealer statutes have been amended several times.

In 2007, Arizona enacted legislation creating additional requirements for scrap metal dealers and sellers and expanding the aggravated criminal damage statute to address damage caused by metal theft. Following is a discussion of Arizona's scrap metal and aggravated criminal damage statutes.

Scrap Metal Dealers

A scrap metal dealer is a person or business entity, except an automotive recycler, that is engaged in the business of purchasing, trading, bartering or receiving secondhand material that is commonly known as scrap metal. Used beverage containers are not defined for these purposes as scrap metal. Statute regulates scrap metal dealers and prohibits counties, cities and towns from enacting or enforcing ordinances, rules or regulations that conflict with the statutory provisions.

Recordkeeping

For any transaction involving the receipt of scrap metal that exceeds \$25, with specified exceptions, a dealer must keep a record that

includes the following information: 1) the date, time and place of the transaction; 2) a photograph and an identifying description of the scrap metal received; 3) the dollar amount of the transaction; 4) the seller's name, physical description, physical address, date of birth and signature; 5) a photocopy of the seller's current government issued identification; 6) the seller's transaction privilege tax number; 7) the number and state of issuance of the license plate on the seller's vehicle; 8) a photograph, video record or digital record of the seller; and 9) a right index fingerprint of the seller. Dealers must retain these records and make them open for inspection during regular business hours for two years. Failure to comply with the recordkeeping requirements is a class 1 misdemeanor.

Payment for Scrap Metal

As of September 1, 2007, for transactions involving industrial accounts, copper, aluminum wire with a diameter of at least 3/8 of an inch and scrap metal transactions of \$300 or more, a scrap metal dealer may not provide payment on site at the time of the transaction, but instead must mail a check or money order to the seller's physical address. There are certain exceptions to this requirement, including if the transaction is with an industrial account that preregisters employees as authorized sellers. Scrap metal dealers must provide a receipt to each seller at the time of the transaction.

Transaction Reports

Until September 1, 2007, a scrap metal dealer was required, within 24 hours after receiving scrap metal for which a record was required, to deliver a record of the receipt to the local law enforcement agency, with certain exceptions. As of September 1, 2007, such records must be submitted to the Department of Public Safety and must include: 1) the date, time and place of the transaction; 2) an identifying description of the scrap metal received; 3) a description of the seller; 4) a photocopy of the seller's current government issued identification; and 5) the number and state of issuance of the license plate of the seller's vehicle. Failure to file a report is a class 1 misdemeanor.

A dealer must hold on its business premises for seven days after filing the report, in the same size, shape and condition in which the metal was received, copper, aluminum wire with a diameter of at least 3/8 of an inch and metal received in transactions with a value over \$100, with specific exceptions.

Miscellaneous

Statute also restricts the purchase or receipt of wire that has been burned or had the insulation removed, as well the removal of insulation by scrap metal dealers.

Scrap Metal Sellers

Arizona regulates not only the purchase of scrap metal, but also the sale of scrap metal. As of September 1, 2007, a scrap metal seller must be at least 16 years of age. Furthermore, a scrap metal seller may not conduct a series of transactions for one vehicle load of scrap metal in order to avoid the recordkeeping and payment requirements and may not participate in more than one cash transaction per day.

Penalties for Metal Theft

Theft

In Arizona, the classification of theft depends on the value of the property, but varies from a class 1 misdemeanor for the theft of any property valued at less than \$1,000 to a class 2 felony for the theft of property with a value of \$25,000 or more. However, according to entities that have been the victims of metal theft, such as utility and agricultural companies, the value of the damage caused by metal theft, such as service interruption and necessary equipment repairs, is generally greater than the value of the stolen metals themselves.

Aggravated Criminal Damage

In 2007, the Legislature amended the aggravated criminal damage statute to address metal theft. As of May 8, 2007, aggravated criminal damage also includes intentionally or recklessly, without the express permission of the owner, defacing, damaging or tampering with any utility or agricultural infrastructure or property, construction site or existing structure

for the purpose of obtaining nonferrous metals. This form of aggravated criminal damage is: 1) a class 3 felony if the damage to the property is in amount of \$10,000 or more; 2) a class 4 felony if the damage to the property is in the amount of \$1,500 or more but less than \$10,000; and 3) a class 5 felony in all other cases.

ADDITIONAL RESOURCES:

- Scrap Metal Dealer Statutes: Arizona Revised Statutes, Title 44, Chapter 11, Article 3.1
- Criminal Damage to Property Statutes: Arizona Revised Statutes, Title 13, Chapter 16
- Arizona Department of Public Safety, Rocky Mountain Information Network
2828 North Central, 11th Floor
Phoenix, AZ 85004
(602)351-2320, ext. 3
http://rmin.rissinfo.com/HTML/Metal_Theft.htm
- Beer Institute
<http://www.beerinstitute.org/index.asp>
- Institute of Scrap Recycling Industries
<http://www.isri.org//AM/Template.cfm?Section=Home1>
- National Conference of State Legislatures
Copper Theft Page
<http://www.ncsl.org/programs/energy/CopperTheftpage.htm>